

IDAPA 48 - IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48.01.01 - RULES OF PROCEDURE OF THE IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-0902 (FEE RULE)

NOTICE OF RULEMAKING - PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-3605(15), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

WEDNESDAY, OCTOBER 28, 2009 -- 9:30 to 11:00 a.m.

**J.R. WILLIAMS BUILDING
East Conference Room
700 West State St., Boise, Idaho**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 54-3610, Idaho Code, was revised to authorize the proposed rule changes in the 2009 legislative session. Increase to the tax rates applicable to grape growers and wineries in Idaho.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased:

The tax on wine production is revised to four cents (\$.04) per gallon, seven dollars (\$7) per ton of grapes, and six dollars and sixty-eight cents (\$6.68) per one hundred sixty-seven (167) gallons of grape juice produced outside of Idaho. The tax is phased in over a three (3) year period with a cap for taxes on wineries imposed in the first year.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The Commission may receive additional revenue from the proposed changes. Idaho Code provides persons subject to the tax with an opportunity to opt out of the tax. The Commission is not able to determine whether more taxpayers will opt out due to the revisions.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220, Idaho Code, negotiated rulemaking was not conducted because of the simple nature of the rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Moya Shatz, Executive Director, (208) 455-8354.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 28, 2009.

DATED this 24th day of August, 2009.

Moya Shatz, Executive Director
Idaho Grape Growers and Wine Producers Commission
117 9th Ave., Ste. 2
P. O. Box 1218
Caldwell, ID 83606

Telephone: (208) 455-8354
Facsimile: (208) 455-8364

THE FOLLOWING IS THE PROPOSED TEXT FOR DOCKET NO. 48-0101-0901

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries and grapes used, grown, or purchased for the production of wine in Idaho. The rate of tax shall be: (3-19-07)

a. ~~One hundred dollars (\$100)~~ Four cents (\$.04) per ~~winery~~ gallon of wine produced during the previous calendar year. (3-19-07)()

b. ~~Five~~ Seven dollars (\$57) per ~~acre~~ ton of grapes ~~cultivated~~ harvested in Idaho for the purpose of vinification during the previous calendar year. (3-19-07)()

c. ~~Five~~ Seven dollars (\$57) per ton for grapes purchased from producers outside Idaho for the production of wine in Idaho during the previous calendar year. (3-19-07)()

d. ~~Five~~ Six dollars and sixty-eight cents (\$56.68) per one hundred sixty-seven (167) gallons, or any portion thereof, of grape juice purchased from producers outside Idaho for the production of wine in Idaho during the previous calendar year. (3-19-07)()

e. The tax rates set forth in Paragraphs 020.01.a. through 020.01.d., shall be phased in over a three-year (3) period as follows: ()

i. Thirty-three percent (33%) in fiscal year 2010; ()

ii. Sixty-six percent (66%) in fiscal year 2011; and ()

iii. One hundred percent (100%) in fiscal year 2012 and all subsequent years, except that the maximum tax levied upon any winery for fiscal year 2010 shall be one thousand dollars (\$1,000). ()

02. ~~Maximum~~ Minimum Levy. The ~~total~~ minimum taxes paid by any ~~individual~~ grower or winery shall ~~not exceed three~~ be one hundred dollars (\$100) annually. (3-19-07)()

03. Payment of Tax. The ~~producer cultivating~~ grower ~~harvesting~~ grapes for the production of wine shall pay the tax levied upon the ~~producer~~ grower. Each winery shall pay the tax levied upon the winery. Purchasers of grapes grown or grape juice produced outside Idaho shall pay taxes levied on such grapes and grape juice. All taxes shall be paid on or before June 30 of each year. (3-19-07)()

04. Late Payment Penalty. Persons making payment of the levied tax after the date set forth in this chapter shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. In addition to the late payment penalty, the Commission shall be entitled to recover all costs, fees, and reasonable attorney's fees incurred in the collection of the tax and penalty provided for in Section 020 of these rules. (3-19-07)

05. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. The letter shall include the grower or producer's name and address. (3-19-07)